

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JACKSON ENERGY COOPERATIVE	)	
_____	)	CASE NO. 2004-00419
	)	
ALLEGED FAILURE TO COMPLY	)	
WITH COMMISSION REGULATION	)	
807 KAR 5:006, SECTION 24(1)	)	

O R D E R

By Order dated January 20, 2005, the Commission directed Jackson Energy Cooperative ("Jackson Energy") to appear at a hearing on February 14, 2005 to show cause why it should not be subject to the penalties provided under KRS 278.990 for one alleged violation of the Commission's administrative regulations. The regulation alleged to have been violated is 807 KAR 5:006, Section 24(1), which requires a utility to adopt and execute a safety program and to establish a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.

The alleged violation arose from a September 13, 2004 accident involving a Jackson Energy crew foreman who was installing wires to supply a new X-ray machine at a hospital in Manchester, Kentucky. While attempting to tighten a wire on an energized bus bar, the Allen wrench being used by the crew foreman contacted an energized lug causing a short circuit and creating a flash. The crew foreman was not wearing eye protection and he suffered burns to his face. At the request of Jackson Energy, the hearing was cancelled and an informal conference was convened at the

Commission's offices on February 10, 2005 to discuss the operative facts surrounding the accident. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on March 24, 2005.

The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth Jackson Energy's agreement with the statement of facts set forth in the Staff's Incident Investigation Report, which was appended to the Commission's January 20, 2005 Order. The Stipulation also discusses the remedial action taken by Jackson Energy since the time of the accident, and provides that Jackson Energy will pay a civil penalty in the amount of \$1,500.

In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation and Jackson Energy's willingness to cooperate to achieve a resolution of the matters at issue in this proceeding. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. Jackson Energy shall pay \$1,500 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State

Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Upon payment of the \$1,500 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 21st day of April, 2005.

By the Commission

ATTEST:



Executive Director

## APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2004-00419 DATED April 21, 2005.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
MAR 24 2005  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

JACKSON ENERGY COOPERATIVE )

CASE NO. 2004-00419

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ALLEGED FAILURE TO COMPLY )  
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STIPULATION OF FACTS  
AND  
SETTLEMENT AGREEMENT

By Order dated January 20, 2004, the Commission initiated this proceeding to determine whether Jackson Energy Cooperative ("Jackson Energy") should be subject to the penalties prescribed in KRS 278.990 for one probable violation of the Commission's Administrative Regulations, 807 KAR 5:006, Section 24(1), which requires a utility to adopt and execute a safety program and to establish a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.

The Commission's Order arose out of an incident which occurred on September 13, 2004 at Manchester Memorial Hospital in Manchester, Kentucky. A Jackson Energy crew foreman was installing wires to supply a new X-ray machine at the hospital. While attempting to tighten a wire in an energized bus bar, the Allen wrench being used by the crew foreman contacted an energized lug, causing a short

circuit and creating a flash. The crew foreman was not wearing eye protection and he suffered burns to his face.

On February 8, 2005, Jackson Energy filed a Response to the Commission's January 20, 2005 Order and requested an informal conference with Commission Staff. An informal conference was held at the Commission's offices on February 10, 2005. As a result of discussions held during the conference, Jackson Energy and the Commission Staff submit the following Stipulations of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. Jackson Energy agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's January 20, 2005 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. As a result of, and in response to, the incident, Jackson Energy has implemented the following remedial actions:

a. Jackson Energy has committed to purchasing insulated tools to replace the current uninsulated tools whenever and wherever possible.

b. Jackson Energy has agreed to adopt a revision to its Administrative Policy No. A-506, an addendum to its safety manual, indicating that there is a reciprocal responsibility on both employees and supervisors of Jackson Energy to report safety violations whenever they are observed.

c. Disciplinary action was taken against the crew foreman, consisting of a one-week layoff without pay pursuant to the Jackson Energy safety program and,

upon returning to work, being required to speak at the employees' safety meeting on the importance of wearing safety glasses.

3. Jackson Energy agrees to pay a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500.00) in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's January 20, 2005 Order to whether Jackson Energy should be assessed a penalty under KRS 278.990 for a willful violation of Commission regulations. Neither the payment of the civil penalty nor any other agreement contained in this Stipulation shall be construed as an admission by Jackson Energy of a willful violation of any Commission regulation, nor shall it be construed as an admission by Jackson Energy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful violation of any Commission regulation.

4. In the event that the Commission does not accept this Stipulation in its entirety, Jackson Energy and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by Jackson Energy of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party.

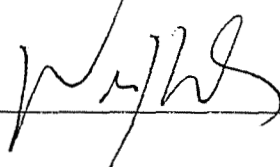
5. This Stipulation is for use in Commission Case No. 2004-00419, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the

Commission to enforce the terms of this Stipulation or to conduct a further investigation of Jackson Energy's service, and Jackson Energy shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

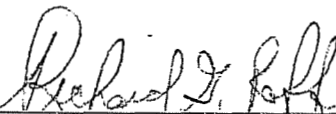
6. Jackson Energy and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Jackson Energy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 24<sup>th</sup> day of March, 2005.

JACKSON ENERGY COOPERATIVE

  
\_\_\_\_\_  
Title \_\_\_\_\_

STAFF OF THE PUBLIC SERVICE  
COMMISSION OF KENTUCKY

By   
\_\_\_\_\_  
Richard G. Raff, Staff Attorney